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8 Attorneys for Defendant PANOPTX, INC.

9 UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 PROTECTIVE OPTICS, INC., a California  
12 corporation,

13 Plaintiff,

14 v.

15 PANOPTX, INC., a California corporation,

16 Defendants.

Case No.: C05-02732 CRB

**STIPULATED REQUEST FOR LEAVE  
FOR DEFENDANT PANOPTX, INC. TO  
FILE AMENDED ANSWER AND FOR  
WITHDRAWAL OF PLAINTIFF'S  
PENDING MOTION TO STRIKE;  
[PROPOSED ORDER]**

1 Pursuant to Civil Local Rule 7-12, plaintiff Protective Optics, Inc. ("Protective Optics") and  
2 defendant Panoptx, Inc. ("Panoptx") stipulate as follows and respectfully request that the Court enter  
3 the following Proposed Order:

4 WHEREAS on March 13, 2006, Protective Optics filed an Amended Complaint in this  
5 action;

6 WHEREAS on April 10, 2006, Panoptx filed its Answer to Amended Complaint and  
7 Counterclaim;

8 WHEREAS on May 1, 2006, Protective Optics filed a Motion to Strike Defendant's Eight  
9 and Eleventh Affirmative Defenses;

10 WHEREAS Panoptx and Protective Optics have met and conferred on this issue, and  
11 Panoptx has agreed to withdraw its Eighth and Eleventh Affirmative Defenses without prejudice;

12 WHEREAS withdrawal of those affirmative defenses will render moot Protective Optics'  
13 pending Motion to Strike;

14 IT IS HEREBY STIPULATED AND AGREED THAT, subject to Court approval, Panoptx  
15 shall file an Amended Answer and Counterclaim, a copy of which is attached as Exhibit A, and  
16 Protective Optics previously filed Answer to Counterclaim shall be deemed its response to the  
17 Amended Answer and Counterclaim. It is further ordered that Plaintiff's pending Motion to Strike  
18 shall be taken off calendar as moot in light of the attached Amended Answer and Counterclaim.

19  
20 Dated: May 19, 2006

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

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23 By: \_\_\_\_\_/s/  
24 Michael D. Lisi  
25 Attorneys for Defendant PANOPTX, INC.  
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1 Dated: May 19, 2006

FOLEY & LARDNER LLP

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3 By: \_\_\_\_\_/s/

4 Debra D. Nye

dnye@foley.com

5 FOLEY & LARDNER LLP

6 1530 Page Mill Road

7 Palo Alto, CA 94304-1125

Telephone: (650) 856-3700

8 Facsimile: (650) 856-3710

9 Attorneys for Plaintiff Protective Optics, Inc.

10 I hereby attest that I have been authorized by Debra D. Nye to execute on her behalf this  
11 Stipulated Request for Leave To File Amended Answer And For Withdrawal of Motion to Strike.

12 Executed on this 19th day of May, 2006 at San Francisco, California.

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14 \_\_\_\_\_/s/ Michael D. Lisi

15 MICHAEL D. LISI  
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**PROPOSED ORDER**

Having considered the Stipulated Request for Leave To File Amended Answer And For  
Withdrawal of Motion to Strike and finding good cause therefor,

IT IS HEREBY ORDERED THAT:

- 1) Defendant Panoptx, Inc. is granted leave to file its Amended Answer and Counterclaim;
- 2) Plaintiff Protective Optics, Inc.'s previously filed Answer to Counterclaim and  
Affirmative Defenses shall be deemed its response to the Amended Answer and  
Counterclaim;
- 3) Plaintiff Protective Optics, Inc.'s Motion to Strike Defendant's Eight and Eleventh  
Affirmative Defenses is taken off calendar as moot in light of Defendant's Amended  
Answer and Counterclaim.

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: May 24, 2006, 2006

